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BY HAND

ORIGINAL
MAY 25 2007

Hon. Vernon A. Williams
Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

**RE: STB FD No. 35012, Wisconsin & Southern Railroad Co.—
Lease and Operation Exemption - The Soo Line Railroad
Company d/b/a Canadian Pacific Railway**

Dear Secretary Williams:

On behalf of Wisconsin & Southern Railroad Co.
("WSOR"), I am filing an original and ten copies of the
following two documents in the above-captioned proceeding:

(1) WSOR's Petition for Exemption seeking
authorization for its lease and operation of a rail line
currently owned and operated by The Soo Line Railroad
Company d/b/a Canadian Pacific Railway; and

(2) WSOR's Certificate of Compliance with 49 CFR
1121.4(h) and notice of intent to lease and operate a rail
line.

I am also enclosing a check payable to the Board for
\$5700 representing the applicable filing fee and a copy of
the filing on a disk formatted for MS Word.

Please date stamp and return two copies of each
document submitted.

Sincerely yours,


John D. Heffner

Enclosures

cc: Mr. William Gardner
Mr. Tim Karp
Leigh K. Currie, Esq.

BEFORE THE
SURFACE TRANSPORTATION BOARD



ORIGINAL

STB Finance Docket No. 35012

WISCONSIN & SOUTHERN RAILROAD CO.
-- LEASE AND OPERATION EXEMPTION --
SOO LINE RAILROAD COMPANY
d/b/a CANADIAN PACIFIC RAILWAY

VERIFIED PETITION FOR EXEMPTION
UNDER 49 U.S.C. 10502
FROM 49 U.S.C. 10902

ENTERED
Office of Proceedings
MAY 25 2007
Part of
Public Record

FEE RECEIVED

MAY 25 2007

SURFACE
TRANSPORTATION BOARD

ORIGINAL

John D. Heffner
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Telephone: (202)263-4180

Counsel for Petitioner
Wisconsin & Southern
Railroad Co.

Dated: May 24, 2007

EXPEDITED HANDLING REQUESTED

FILED

MAY 25 2007

SURFACE
TRANSPORTATION BOARD

**BEFORE THE
SURFACE TRANSPORTATION BOARD**



STB Finance Docket No. 35012

**WISCONSIN & SOUTHERN RAILROAD CO.
-- LEASE AND OPERATION EXEMPTION --
SOO LINE RAILROAD COMPANY
d/b/a CANADIAN PACIFIC RAILWAY**

**VERIFIED PETITION FOR EXEMPTION
UNDER 49 U.S.C. 10502
FROM 49 U.S.C. 10902**

I.

INTRODUCTION

Pursuant to 49 U.S.C. 10502, Wisconsin & Southern Railroad Co. (WSOR or Petitioner), an existing class II regional railroad, seeks an exemption from 49 U.S.C. 10902 permitting it to lease and operate approximately 4.8 miles of railroad known as the Glendale Line (hereafter "the Line") and owned by the Soo Line Railroad Company d/b/a Canadian Pacific Railway (CPR) including a portion of CPR's Glendale Yard known as the "B" Yard. All of this trackage is hereinafter identified as "the subject trackage." The Line consists of a line of railroad track located in Milwaukee, WI, extending southerly from the north line of Hampton Avenue at CPR milepost 93.2 on its Watertown Subdivision to CPR milepost 88.4, which end point is approximately 500 feet south of the southerly street line of

State Street. WSOR submits as Exhibit A a map depicting the location of the Subject Trackage and its connections, and as Exhibit B, a map depicting the entire WSOR system. For the reasons stated at the end of this Petition, WSOR requests expedited consideration with a decision to be issued on or about July 24, 2007, effective upon service.

II.

FACTUAL BACKGROUND

Petitioner is an existing class II railroad common carrier operating over 573.23 miles of trackage in Wisconsin and adjacent northern Illinois. Originally established in 1980 to operate segments of the former Milwaukee Road that were being abandoned and subsequently acquired by the State of Wisconsin, WSOR has grown substantially over the past 26 years. Starting as a class III short line rail carrier operating 93 miles of track in central Wisconsin, WSOR eventually assembled a network of rail lines serving the southern half of the State consisting of routes formerly operated by CPR (or its predecessor the Milwaukee Road), Canadian National Railway (or its predecessor Wisconsin Central LTD), and Union Pacific Railroad Company (or its corporate predecessor the Chicago And Northwestern Railway). In 1992, WSOR's owner and President William Gardner acquired control of another class III Wisconsin-based short line

railroad, the Wisconsin & Calumet Railroad (WICT) serving southern Wisconsin and adjacent northern Illinois. In 1996, WSOR merged WICT's operations and properties into WSOR, leaving WSOR as the surviving company.¹ WSOR also acquired several sets of trackage rights from other railroads for the purpose of connecting all of these lines. Early in 2003, WSOR's revenues increased to the point where it became a small class II railroad.

WSOR wants to lease the subject line in order to takeover, develop, and provide rail service at an industrial site formerly occupied by a now defunct rail customer as well as to obtain much needed yard capacity to serve its Milwaukee area customers. WSOR is unique among short lines and regional railroads in that it acquires vacant industrial sites for the purpose of enticing rail-served customers to locate there and use its services. WSOR anticipates that the Line and adjacent real estate will provide an excellent location with which to attract new or relocating industry resulting in new job opportunities and economic development for the Milwaukee area. Based upon its success in developing industrial sites at other locations around its system, WSOR believes, as a smaller, locally based carrier

¹ See, Wisconsin & Southern Railroad Co.-Corporate Family Transaction Exemption-Wisconsin and Calumet Railroad Company, STB FD No. 33450 (served September 5, 1997).

offering more frequent and customer-centered service, it will be able to attract customers to the Line.

The Subject Trackage consists of a railroad yard known as the "B" yard and the Line. The "B" yard is adjacent to another CPR yard known as the "A" yard which WSOR has leased from CPR and operated over the past 10 years. CPR pretty much stopped operating much of the Subject Trackage about three years ago when the last major customer at the end of that trackage ceased operations. CPR's only reason for utilizing the Subject Trackage was to interchange cars with WSOR. As a result of this transaction, WSOR will now lease the "B" yard as well as the "A" yard. WSOR then intends to use the "B" yard as a facility for locating new rail-served customers.

III.

ADDITIONAL INFORMATION

So that the Board may expeditiously process its request, WSOR provides the following additional information about the transaction:

(1) The full name and address of the Petitioner is Wisconsin & Southern Railroad Co., 5300 N. 33rd Street, P.O. Box 90229, Milwaukee, WI 53209-0229.

(2) The name, address, and telephone number of the representative of the Petitioner who should receive correspondence is John D. Heffner, John D. Heffner, PLLC,

1920 N Street, N.W., Suite 800, Washington, D.C. 20036.
Phone is 202-263-4180.

(3) The name and address of the railroad leasing the rail line is Soo Line Railroad Company d/b/a Canadian Pacific Railway, 501 Marquette Avenue S., Suite 800, Minneapolis, MN 55402.

(4) The parties propose to consummate this transaction as soon as possible, hopefully on or shortly after July 24, 2007.¹

(5) The Subject Trackage consists of a railroad track located in Milwaukee extending southerly from the north line of Hampton Avenue in Milwaukee, WI, at CPR milepost 93.2 on its Watertown Subdivision to CPR milepost 88.4 and includes a series of tracks known as the "B" yard comprising part of CPR's Glendale Yard.

(6) Maps indicating the Subject Trackage and the WSOR system are attached hereto as Exhibits A and B.

(7) After the transaction is consummated, WSOR will continue to be a class II carrier.

IV.

ARGUMENT

THE LEASE AND OPERATION OF THE SUBJECT TRackage SHOULD BE EXEMPTED

¹ The labor notice required under 49 CFR 1121.4(h) will be posted by CPR and served by WSOR on the affected unions at least 60 days before consummation of this transaction. WSOR will certify this information to the Board once posted and served.

Petitioner seeks an exemption under 49 U.S.C. 10502 from 49 U.S.C. 10902 to permit it to lease and operate approximately 4.8 miles of trackage, including a portion of CPR's Glendale Yard known as the "B" yard. But for the exemption of 49 U.S.C. 10502, WSOR's transaction would require the Board's authorization under 49 U.S.C. 10902 applicable to the lease and operation of actively used railroad lines by existing class II and III rail carriers. Under §10902(c), the Board shall issue a certificate authorizing a class II carrier to acquire (or lease) an additional line of railroad unless the Board finds that the transaction is inconsistent with the public convenience and necessity.

Petitioner believes that its request is appropriate for exemption from the formal requirements of §10902. Section 10502 directs the Board to grant an exemption from regulation if it finds that (1) regulation is not necessary to carry out the transportation policy of §10101(a) and (2) either (a) the transaction or service is of limited scope, or (b) the application of a provision of this subtitle is not needed to protect shippers from the abuse of market power. Indeed, the legislative history behind §10505 (the predecessor section to the current §10502) makes clear Congress' intent that the Interstate Commerce Commission (and now the Board) use its exemption authority liberally to free certain transactions and services from the administrative and financial costs associated with continued regulation.

In discussing the exemption powers of the Board's

predecessor -- the ICC -- the Staggers Act legislative history states:

The policy underlying this provision is that while Congress has been able to identify broad areas of Commerce where reduced regulation is clearly warranted, the Commission is more capable through the administrative process of examining specific regulatory provisions and practices not yet addressed by Congress to determine where they can be deregulated consistent with the policies of Congress. The conferees expect that, consistent with the policies of this Act, the Commission will pursue partial and complete exemptions from remaining regulation.

H.R. Rep. No. 96-1430, 96th Cong. 2d Sess. 105 (1980); see also, Exemption from Regulation--Boxcar Traffic, 367 I.C.C. 424, 428 (1983), vacated and remanded on other grounds, Brae Corp. v. United States, 740 F.2d 1023 (D.C. Cir. 1984). This statement applies equally to the Board as the ICC's successor.

Exemption of the proposed transaction from §10902 is exactly the type of minor transaction Congress contemplated when it enacted §10502. Requiring WSOR to submit a formal application is not necessary to carry out the transportation policy of 49 U.S.C. 10101a. A grant of the exemption will further several goals of the I.C.C. Termination Act including §10101a(2) and (7), minimizing federal control over transportation and reducing regulatory barriers to entry. A grant will also facilitate the goals of §10101a(5) and (9) providing for sound economic conditions in the transportation industry and honest and efficient management of railroads. WSOR's lease of this trackage from CPR will permit a locally-

based carrier with strong ties to Wisconsin to rehabilitate the Line, provide improved service over it, and collect local traffic which can then be funneled efficiently to CPR and other class I carriers for longer haul distribution over the national railroad system.

Granting WSOR's request also satisfies both the limited scope and the no abuse of captive shippers tests of the § 10502 exemption provision. The total length of the track involved is only about 4.8 miles. WSOR's current system connects with each of the six largest Class I railroads, and WSOR operates via trackage rights into Chicago, where it connects with the lines of six of the seven of the nation's largest railroads. Because WSOR operates as a neutral "feeder" railroad with multiple Class I connections, WSOR's rail service would increase the competitive options available to shippers that locate on the Line. For these reasons, WSOR's lease and operation of the Line will not result in an abuse of market power.

In 1996, the Board promulgated a class exemption entitling class III carriers to acquire and/or operate actively used rail lines without having to undergo the expense and burden of submitting either a formal application or an individual petition for exemption for operating authority. Class Exemp. For Acq. Or Oper. Under 49 U.S.C. 10902, 1 S.T.B. 95 (1996). Had WSOR still been a class III carrier at the time of this filing, it would have been entitled to avail itself of that class exemption. Due to the unfortunate absence of such a class exemption for the lease and operation of actively used lines by class II carriers,

WSOR must file an individual petition for exemption. But the reasons for granting the exemption sought here are the same as those applicable to a grant of the class exemptions discussed above. Moreover, the Board has on previous occasions exempted similar acquisition or lease and operation transactions by class II carriers involving a miniscule amount of trackage. In fact, in Wisconsin & Southern Railroad Co. - Acquisition Exemption - Iowa, Chicago & Eastern Railroad Corporation, STB Finance Docket No. 34464, served June 30, 2004, the Board exempted WSOR's acquisition of about 7 miles of yard trackage in Janesville, WI, that it had long operated under a lease. Similarly, in Wisconsin & Southern Railroad Co. - Acquisition Exemption - Union Pacific Railroad Company, STB Finance Docket No. 34633, served January 19, 2005, it granted an exemption for WSOR to acquire by lease and purchase and operate 14 miles of trackage near Plymouth, WI.²

V.

EMPLOYEE PROTECTION; CERTIFICATION OF NOTICES

This transaction will be subject to the employee severance conditions described in 49 U.S.C. 10902(d) as set forth in Wisconsin Central Ltd-Acquisition Exemption-Union Pacific Railroad, 2 S.T.B. 218 (1997), rev'd in part sub nom. Association of American Railroads v. STB, 162 F.3d 101 (D.C. Cir. 1988).

Under 49 CFR 1121.4(h) WSOR is required to post and serve a

² That transaction has not been consummated.

notice of intent at least 60 days before the exemption becomes effective. WSOR will serve a letter on the Board certifying that it had complied with the notice and posting requirements of 49 CFR 1121.4(h) once it has done so.

VI.

ENVIRONMENTAL AND HISTORIC IMPACTS

UNDER 49 CFR 1105

Pursuant to 49 CFR 1105.6(c)(2), the proposed transaction is exempt from environmental review under 49 CFR 1105(c)(2)(1), because the actions proposed herein will not cause any operating changes that exceed the thresholds established in 1105.7(e)(4) or (5).

In addition, this transaction is exempt from historic review under 1105.8(b)(1). Under this section, a sale, lease or transfer of a rail line is exempt if rail operations will continue. Further Board approval is required for the parties to abandon service, and there are no plans to dispose of or alter the properties subject to Board jurisdiction.

VII.

EXPEDITED CONSIDERATION REQUESTED

As noted in the introduction to this Petition, WSOR seeks an expedited decision granting its request effective upon service. In support of that request, WSOR notes that 1) the

trackage to be transferred needs substantial rehabilitation which must be performed before the onset of bad weather in late Autumn and any delay could jeopardize that work, 2) the transaction is minor in scope and uncontroversial in impact, 3) the transaction will not result in any significant changes in operations or competitive impact,³ and 4) several of the railroads serving the area including CPR and Canadian National Railway support the transaction and will benefit from it because it will simplify their operations in the area. In many respects, WSOR believes this transaction is similar to one exempted by the Board in BNSF Railway Company - Lease and Operation Exemption - Interlocker Plant of the Illinois Central Railroad Company, STB Finance Docket No. 34976, served February 23, 2007 (where the Board approved a routine exemption petition for BNSF to lease and operate Illinois Central's interlocking plant and related signals and structures in 6 weeks, effective upon 10 days' notice). That case involved a change in responsibility over the maintenance and operation of the interlocker plant but no change in service or competition. Here WSOR will assume responsibility for the maintenance and operation of the "B" yard and related trackage with the only change being the development of new traffic where little has existed during the past three years.

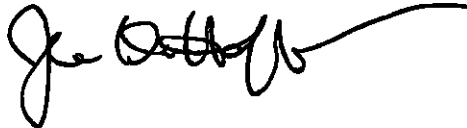
³ The principal changes will be to give WSOR in coordination with CPR an opportunity to develop new rail-served business at CPR's "B" yard.

VIII.

CONCLUSION

Accordingly, WSOR requests that the Board grant it an exemption from the provisions of 49 U.S.C. 10902 to permit it to lease and operate the subject rail line with a decision issued on or about July 24, 2007 effective upon service.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'John D. Heffner', with a long horizontal flourish extending to the right.

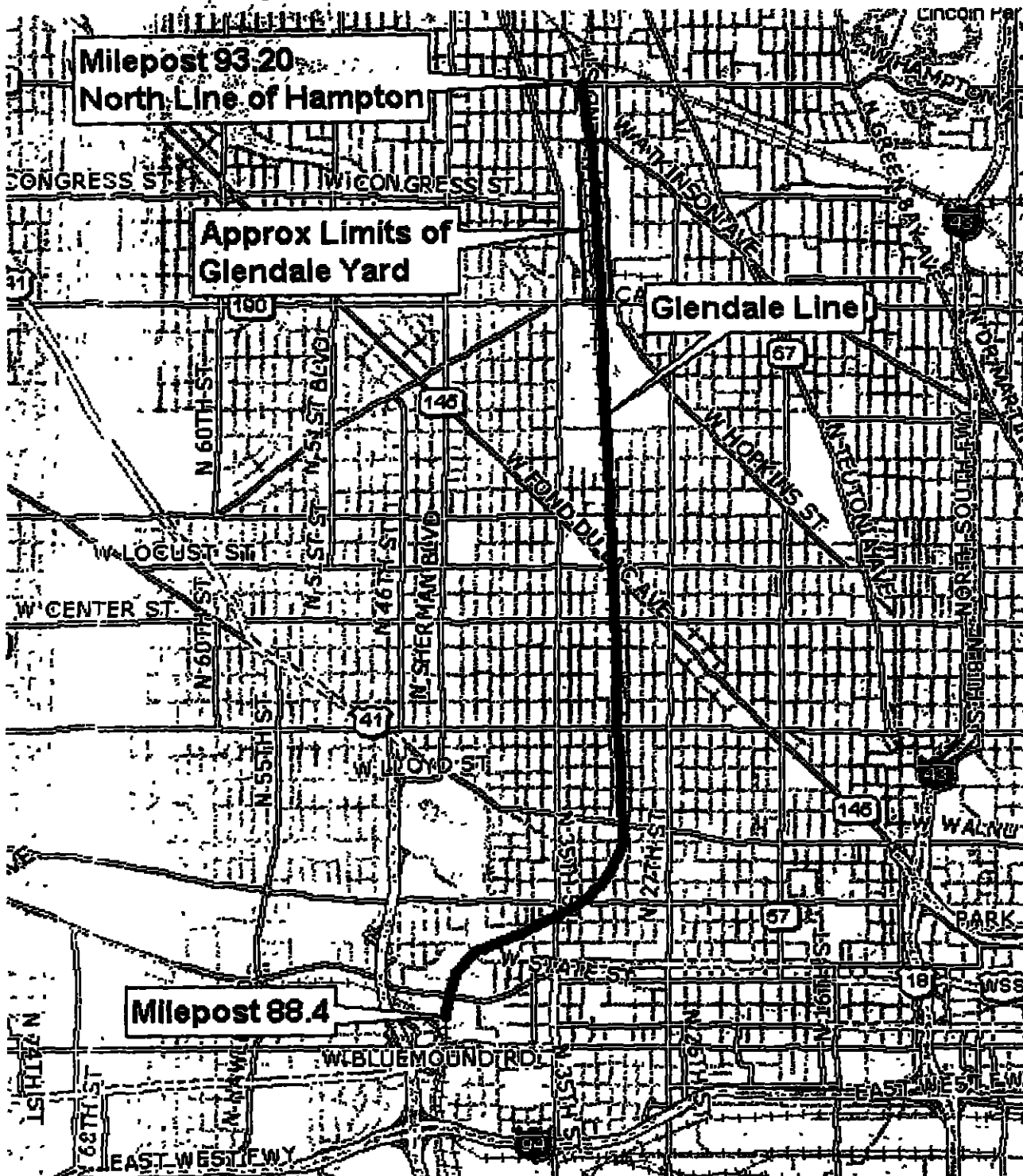
John D. Heffner
John D. Heffner, PLLC
1920 N Street, N.W.
Suite 800
Washington, D.C. 20036
Telephone: (202)263-4180

Counsel for Petitioner
Wisconsin & Southern Railroad Co.

Dated: May 24, 2007

EXHIBIT A

EXHIBIT A

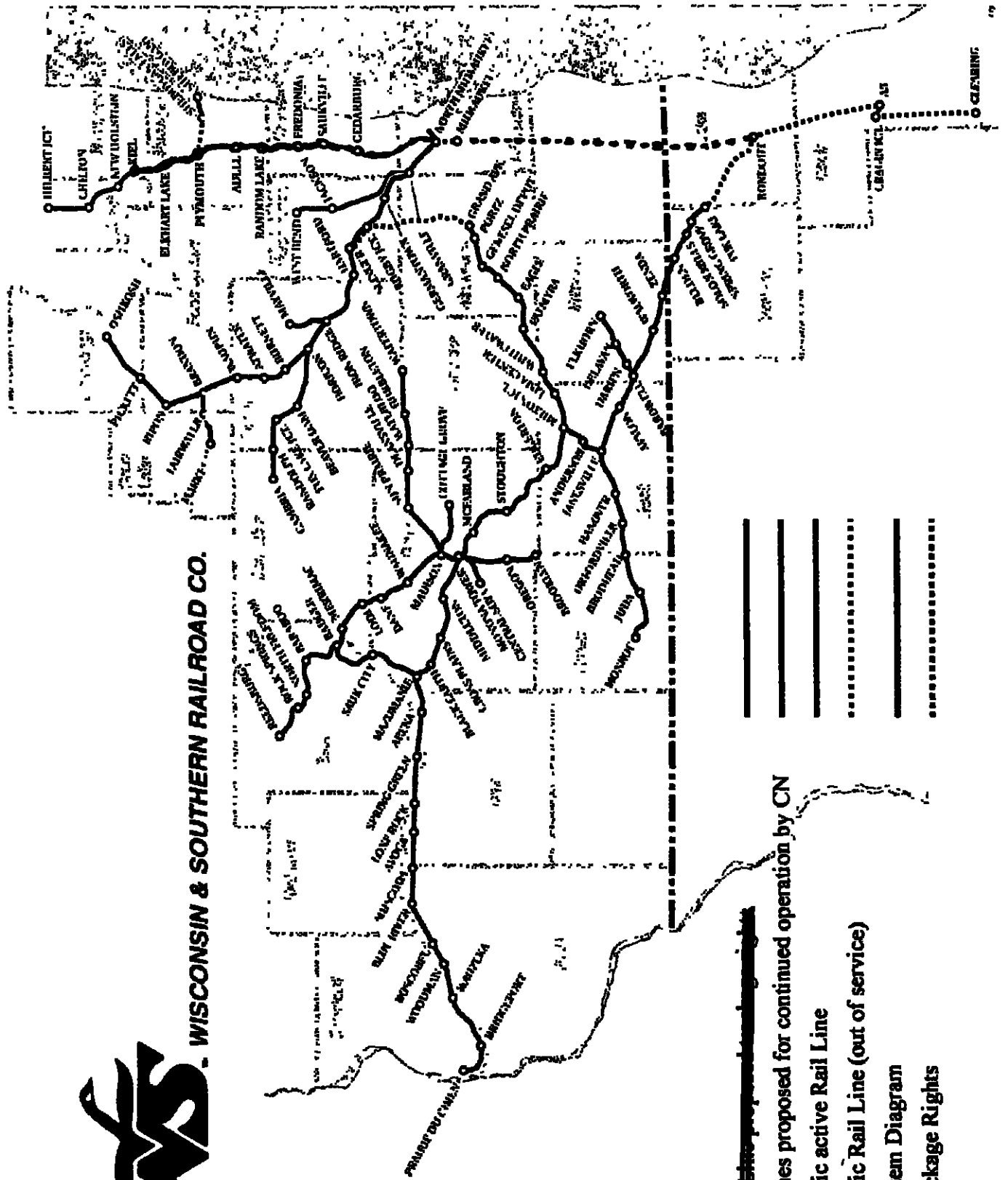


MILWAUKEE, MILWAUKEE CO., WISCONSIN
NO SCALE

EXHIBIT B



WISCONSIN & SOUTHERN RAILROAD CO.



~~WSOR Rail Line proposed for continued operation by CN~~

CN Rail Lines proposed for continued operation by CN

Union Pacific active Rail Line

Union Pacific Rail Line (out of service)

WSOR System Diagram

WSOR Trackage Rights

VERIFICATION

STATE OF)
) SS
CITY OF)

Timothy J Karp, being duly sworn according to law,
hereby ceposes and states that (s)he is authorized to make the
Verification, has read the foregoing document, and knows tne
facts asserted therein are true and accurate as stated, to the
best of (her)his knowledge, information and belief.

Timothy J Karp

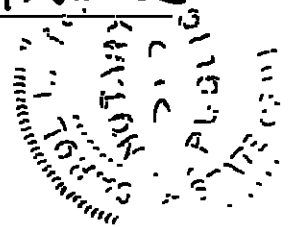
Subscribed and sworn to before me, a Notary Public, in and for
the City of Milwaukee in the State of Wisconsin, this 23
day of May 2007

Carol R. Loria

Notary Public

My Commission expires:

3/27/2011



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ORIGINAL

BY HAND DELIVERY

May 24, 2007



Hon. Vernon A. Williams
Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, DC 20423

**RE: STB Finance Docket No. 35012, Wisconsin & Southern
Railroad Co. - Lease and Operation Exemption - The Soo Line
Railroad Company d/b/a Canadian Pacific Railway**

CERTIFICATE OF COMPLIANCE WITH 49 CFR §1121.4(h)

Dear Secretary Williams:

I am writing on behalf of the Wisconsin & Southern Railroad Co. ("WSOR") in connection with the above-captioned transaction. Pursuant to its regulations, the Board requires WSOR to certify that it has fully complied with the requirements of 49 CFR 1121.4(h).

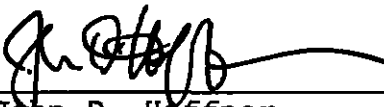
On or about July 24, 2007, WSOR intends to lease and operate a short segment of trackage 4.8 miles in length located in Milwaukee and currently owned and operated by the Soo Line Railroad Company d/b/a Canadian Pacific Railway. The segment extends in a southerly direction from the north line of Hampton Avenue at CPR milepost 93.2 on its Watertown Subdivision to CPR milepost 88.4, which end point is approximately 500 feet south of the southerly street line of State Street. WSOR's annual revenues as a class II carrier exceed \$5 million.

On May 24, 2007, WSOR filed a petition for exemption with the Board pursuant to 49 U.S.C. 10502 from the requirements of 49 U.S.C. 10902 governing its proposed lease and operation of the subject trackage. As noted above, WSOR does not anticipate consummating the proposed transaction before July 24, 2007, at least 60 days from the date of posting this notice.

Accordingly, by this instrument, and through the undersigned counsel, WSOR hereby certifies that, as of May 24, 2007, it has complied with the advance notice requirements for a rail line transaction as prescribed by 49 §1121.4(h). Specifically, and as is set forth in the attached documents, notice of the proposed transaction fully conforming to the provisions of 49 §1121.4(h) has been - (1) served upon the national offices of the labor unions with employees on the affected lines, and (2) posted at the workplaces of employees on the affected lines.

Any questions regarding this certification should be addressed to the undersigned, designated counsel or, Leigh Currie, Esq., counsel for CPR.

Respectfully submitted,



John D. Heffner

Counsel for Wisconsin &
Southern Railroad Co.

Enclosures

cc: Leigh Currie, Esq. (CPR counsel)
Mr. William Gardner

CERTIFICATION OF POSTING

This will confirm that the Notice of Intent to Lease and Operate certain trackage owned by The Soo Line Railroad Company d/b/a Canadian Pacific Railway was posted on 4/9/07, at the work places of the affected employees at Milwaukee, WI, to insure that all affected employees of The Soo Line Railroad Company d/b/a Canadian Pacific Railway are properly notified of a proposed rail line transaction as provided under 49 CFR 1121.4(h).

Signed: Timothy J. K. P.

Title: Vice President

STB Finance Docket No.35012
WISCONSIN & SOUTHERN RAILROAD CO.

NOTICE OF INTENT TO LEASE AND OPERATE

PURSUANT TO 49 U.S.C. 10902 AND
49 CFR 1121.4(h)

Pursuant to Surface Transportation Board regulations at 49 CFR 1121.4(h), Wisconsin & Southern Railroad Co. ("WSOR"), hereby offers notice to employees of the Soo Line Railroad Company a/b/a Canadian Pacific Railway ("CPR") that on or about July 23, 2007, WSOR proposes to lease from CPR and operate the following trackage, including yard and ancillary tracks and structures, as follows:

The total mileage to be leased and operated is approximately 4.8 miles.

The subject trackage consists of a line of railroad track located in Milwaukee, WI, extending southerly from the north line of Hampton Avenue at CPR milepost 93.2 on its Watertown Subdivision to CPR milepost 88.4, which end point is approximately 500 feet south of the southerly street line of State Street.

WSOR currently projects that it will continue to use the services of its existing employees who presently operate over the subject line and will offer employment to existing CPR employees to the extent additional personnel are required. These personnel and their rates of pay are listed below:

1. Engineer(s) at an annual salary of approximately \$38,000-63,000.
2. Trainmen at an annual salary of approximately \$36,000-58,000.
3. Maintenance of way personnel at an annual salary of approximately \$24,000-38,000.

WSOR will offer:

- Dental, medical, and disability insurance
- Expense reimbursement

- Earned time off in lieu of vacation, sick, holiday and certain other types of leave
- Family and medical leave
- Jury duty
- Military leave
- 401(k) plan

WSOR will select any new employees on the basis of:

- Current certifications held
- Railroad job knowledge
- Skills and ability
- Previous work experience

Any CPR employee interested in further information concerning positions available with WSOR should contact Manager of Human Resources Director Suzanne Immel at 414-438-8820 ext. 222.

CERTIFICATION OF POSTING

This will confirm that the Notice of Intent to Lease and Operate certain trackage owned by The Soo Line Railroad Company d/b/a Canadian Pacific Railway was posted on 4/9/07, at the work places of the affected employees at Milwaukee, WI, to insure that all affected employees of The Soo Line Railroad Company d/b/a Canadian Pacific Railway are properly notified of a proposed rail line transaction as provided under 49 CFR 1121.4(h).

Signed: Timothy J. Karp

Title: Vice President